

file

State of Washington
Department of Ecology
Yakima, Washington

IN THE MATTER OF SURFACE WATER)	Preliminary/Temporary
APPLICATIONS S4-30622, S4-30624 AND)	Permits S4-30622PRET,
S4-32415 FOR PERMIT TO APPROPRIATE)	S4-30624PRET, and
SURFACE WATERS FOR FISH PROPAGATION)		S4-32415PRET

TO: Bonneville Power Administration
Marian Wolcott - TSR/ACQ
PO Box 3621
Portland OR 97208-3621

RE: Preliminary/Temporary Permits for beneficial use and to assess the relationship of surface water and groundwater aquifer under applications S4-30622, S4-30624, and S4-32415 in association with related applications G4-32414, and G4-32504.

On November 26, 1990 the Department of Ecology (Department) received an application from the Bonneville Power Administration (BPA) requesting authorization to use up to 21.3 cubic feet per second (cfs, 9559 gallons per minute, gpm) from surface waters of the State of Washington. On the same day, the Department received an application from the applicant requesting authorization to use up to 5.0 cfs (2244 gpm). The applications were accepted as complete, and assigned application numbers S4-30622 and S4-30624 respectively. Proper publications of notice describing the applicant's intent were made on July 25 and August 1, 1991. No protests were received. On July 24, 1991 the Department received a copy of a letter from the U.S. Bureau of Reclamation to the applicant releasing said applications from the February 17, 1981 (Yakima River Basin Watershed Enhancement Project) withdrawal.

Under application number S4-30622, the Bonneville Power Administration (BPA) applied for a permit to appropriate surface waters of the State of Washington for fish propagation. Said application requested the appropriation of up to 21.3 cfs (9559 gallons per minute, gpm) from a point along the Yakima River located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, for continuous use in fish propagation facilities located in those portions of Sections 27, 28, 33, and 34, Township 20 N., Range 15 E.W.M., Kittitas County, Washington. In consideration of the need to evaluate suitability of the proposed diversion, the Department issued Preliminary Permit S4-30622PRE on March 6, 1997 authorizing the construction of the proposed point of diversion, and authorizing preliminary testing of the proposed water source and system by temporarily diverting a quantity of up to 21.3 cfs.

Similarly, under application number S4-30624, the BPA applied for a permit to appropriate surface waters of the State of Washington for fish propagation. The applicant requested authorization to divert up to 5 cubic feet per second (cfs) from the Yakima River located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, for use in fish propagation facilities located in those portions of Sections 27, 28, 33 and 34, Township 20 N., Range 15 E.W.M., Kittitas County, Washington. In consideration of the need to evaluate suitability of the proposed diversion, the Department issued Preliminary Permit S4-30624PRE on March 6, 1997 authorizing the construction of the proposed point of diversion, and authorizing preliminary testing of the proposed water source by temporarily diverting a quantity of up to 5.0 cfs.

Said Preliminary Permits S4-30622PRE and S4-30624PRE issued March 6, 1996 are incorporated herein by reference, and as a result become PRELIMINARY/TEMPORARY PERMITS.

On February 16, 1996 the Department received an application from the BPA requesting authorization to use up to 6.3 cfs (2827 gpm) from the Yakima River. The application was accepted as complete, and assigned application number S4-32415. Proper publication of notice describing the applicant's intent was made on March 21 and March 28, 1996. No protests were

received. On May 3, 1996 the applicant was informed that they should obtain a release letter from the United States Bureau of Reclamation (USBR).

Applications S4-30622, S4-30624 and S4-32415 together seek authorization to divert up to 32.6 cfs (14631 gpm) from the surface waters of the State of Washington for continuous fish propagation from the same point of diversion, and for use on the same place of use. The applicant has also requested authorization to use up to 5,025 gpm (approximately 11.2 cfs) under application G4-32504, and up to 3,000 gpm (approximately 6.68 cfs) under application number G4-32414. However, the applicant proposes to use no more than 32.6 cfs between the five applications, by substituting well water for surface water when the surface water sources are not appropriate for the proposed use. These applications are recognized as for the same proposed purpose. Therefore, the feasibility of the proposed project is dependent on all five applications.

TEMPORARY PERMITS, may be issued if all the requirements of the Revised Code of Washington (RCW 90.03) can be satisfied. One requirement of 90.03 is that there be no impairment to existing rights, including instream flows for anadromous fish habitat. After thorough investigation, this office finds that there are no other authorized surface water diversions from the Yakima River along the proposed project boundary. Also, the co-managers of the fisheries of the Yakima River Basin, Washington Department of Fish and Wildlife and the Yakama Indian Nation, have provided account that not only would instream flows for salmonid habitat not be impaired, but it would be enhanced by surface water diversion under applications S4-30622, S4-30624, S4-32415, and withdrawal under groundwater applications G4-32414, and G4-32504.

In consideration of the above, and in accordance with the provisions of Section 90.03.250 RCW, you may consider this letter to be a **PRELIMINARY/TEMPORARY PERMIT** which is issued subject to the following limitations and provisions:

1. The priority date for **PRELIMINARY/TEMPORARY PERMIT** number:

S4-30622PRET is November 26, 1990,
S4-30624PRET is November 26, 1990, and
S4-32415 is February 16, 1996.
2. The duration of these **PRELIMINARY/TEMPORARY PERMITS** authorizations is until April 5, 2000.
3. These **PRELIMINARY/TEMPORARY PERMITS** together authorize the diversion of up to 32.6 cfs (14631 gpm) from a point of diversion located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, Township 20 N., Range 15 E.W.M., Kittitas County, Washington. These **PRELIMINARY/TEMPORARY PERMITS** authorize said beneficial use for continuous fish propagation on those portions of Section 27, 28, 33, and 34, T. 20 N., R. 15 E.W.M., more particularly described in Exhibits A and B.

For copies of Exhibits A and B contact the Department of Ecology at (509) 575-2491.
4. These **PRELIMINARY/TEMPORARY PERMITS** also together authorize tests of the degree of communication between the groundwater source and the surface waters of the State Of Washington, and related matters. Said analyses are specified in groundwater **PRELIMINARY/TEMPORARY PERMITS** G4-32414PRET and G4-32504PRET.

5. These **PRELIMINARY/TEMPORARY PERMITS** authorize additional construction at the point of diversion on the Yakima River, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, adequate to divert the additional 6.3 cfs requested under application S4-32415. Said diversion is from the same point as that authorized under S4-30622PRE and S4-30624PRE.
6. Data collected during testing shall be analyzed and all pertinent information compiled into reports, consistent with **PRELIMINARY/TEMPORARY PERMITS** G4-32414PRET and G4-32504PRET. Materials may be incorporated by reference where applicable to avoid duplication.
7. The applicant is required obtain a letter from the USBR releasing application S4-32415 prior to any beneficial use of water under S4-32415PRET. These **PRELIMINARY / TEMPORARY PERMITS** are authorizations for the non-consumptive use of surface waters of the State of Washington. Failure to obtain a release letter shall be sufficient cause for these authorizations to be canceled.
8. All expenses, risks, and liabilities incurred during testing shall be borne by the applicant.
9. These **PRELIMINARY/TEMPORARY PERMITS** shall in no manner be construed to guarantee or even imply that final (regular) permits will issue pursuant to the subject applications or similar applications filed in the future. Any final determinations will be made by the Department, pursuant Chapter 90.03 RCW.
10. These **PRELIMINARY/TEMPORARY PERMITS** can be canceled at any time if there is impairment of senior rights, instream flows, or if provisions of applicable law are otherwise not met.
11. This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and gamefish screening criteria (pursuant to RCW 75.20.040). Please contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Management Division, Phone: (360) 753-3318 or call (509) 575-2733 for the Yakima Screen Shop to obtain specific gamefish requirements for your project. Juvenile salmon screening criteria are attached to this **PRELIMINARY PERMIT**.
12. The applicant must obtain Hydraulic Project Approval from the Washington Department of Fish and Wildlife for all construction activities occurring within the ordinary high water mark of the Yakima River and its tributaries. Please contact the Department of Fish and Wildlife, Region 3, 1701 S. 24th Ave., Yakima, WA 98902-5720 or by telephoning Russell Klatt at (509) 925-1013.
13. At the time this authorization ends unless otherwise authorized, the diversion developed under authority of **PRELIMINARY PERMITS** S4-30622PRE and S4-30624PRE, **PRELIMINARY/TEMPORARY PERMIT S4-32415PRET**, and as further recognized in these **PRELIMINARY/TEMPORARY PERMITS** shall be abandoned to prohibit water use. The unauthorized diversion, storage, possession, or use of water is a violation of the surface water code and is a misdemeanor (Chapter 90.03.400 RCW).
14. Failure to comply with any element of these **PRELIMINARY/TEMPORARY PERMITS**, or related authorizations including G4-32414PRET and G4-32504PRET, may result in termination of these **PRELIMINARY/TEMPORARY PERMITS**, and rejection of the applications without further notice.